

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RIALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013010548

ORDER GRANTING MOTION TO
DISMISS CLAIMS ON OR BEFORE
SEPTEMBER 13, 2011

On January 17, 2013, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH) against the Rialto Unified School District (District). On February 1, 2013, the District filed a Motion to Dismiss, which asserted that Student's claims are barred by the parties' previous settlement agreement of September 13, 2011. Student did not file a response.

APPLICABLE LAW

Parents have the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (IDEA). (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029 [hereafter *Wyner*].)

This limited jurisdiction does not include jurisdiction over claims alleging a school district's failure to comply with a settlement agreement. (*Id.* at p. 1030.) In *Wyner*, during the course of a due process hearing the parties reached a settlement agreement in which the district agreed to provide certain services. The hearing officer ordered the parties to abide by the terms of the agreement. Two years later, the student initiated another due process hearing, and raised, inter alia, six issues as to the school district's alleged failure to comply with the earlier settlement agreement. The California Special Education Hearing Office (SEHO), OAH's predecessor in hearing IDEA due process cases, found that the issues pertaining to compliance with the earlier order were beyond its jurisdiction. This ruling was upheld on appeal. The *Wyner* court held that "the proper avenue to enforce SEHO orders" was the California Department of Education's compliance complaint procedure (Cal. Code Regs., tit. 5, § 4600, et. seq.), and that "a subsequent due process hearing was not available to address . . . alleged noncompliance with the settlement agreement and SEHO order in a prior due process hearing." (*Wyner, supra*, 223 F.3d at p. 1030.)

More recently, in *Pedraza v. Alameda Unified Sch. Dist.* (N.D. Cal. 2007) 2007 WL 949603 the United States District Court for the Northern District of California held that OAH has jurisdiction to adjudicate claims alleging denial of a free appropriate public education

(FAPE) as a result of a violation of a mediated settlement agreement, as opposed to “merely a breach” of the mediated settlement agreement that should be addressed by the California Department of Education’s compliance complaint procedure. Additionally, OAH does not have the authority to void or modify the parties’ previous agreements. (*Y.G. v. Riverside Unified Sch. Dist.* (C.D.Cal. 2011) 774 F.Supp.2d 1055, 1062.)

Settlement agreements are interpreted using the same rules that apply to interpretation of contracts. (*Vaillette v. Fireman’s Fund Ins. Co.* (1993) 18 Cal.App.4th 680, 686, citing *Adams v. Johns-Manville Corp.* (9th Cir. 1989) 876 F.2d 702, 704.) “Ordinarily, the words of the document are to be given their plain meaning and understood in their common sense; the parties’ expressed objective intent, not their unexpressed subjective intent, governs.” (*Id.* at p. 686.) If a contract is ambiguous, i.e., susceptible to more than one interpretation, then extrinsic evidence may be used to interpret it. (*Pacific Gas & Electric Co. v. G. W. Thomas Drayage & Rigging Co.* (1968) 69 Cal.2d 33, 37-40.) Even if a contract appears to be unambiguous on its face, a party may offer relevant extrinsic evidence to demonstrate that the contract contains a latent ambiguity; however, to demonstrate an ambiguity, the contract must be “reasonably susceptible” to the interpretation offered by the party introducing extrinsic evidence. (*Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 391, 393.)

DISCUSSION

In this case, Student raises two issues for hearing. Student asserts that the District failed to assess Student in all areas of suspected disability from January 2011 through the present, and therefore failed to develop an appropriate educational program to meet his needs. The District contends that the parties’ September 13, 2011 settlement agreement in OAH Case No. 2011070417 bars Student’s claims on and before that date as Parent waived all claims through September 13, 2011. A review of the parties’ September 13, 2011 settlement agreement supports the District’s position that Parent waived all claims through the date of the execution of the settlement agreement. Therefore, Student’s claims that occurred on or before September 13, 2011 are dismissed.

ORDER

The District’s Motion to Dismiss claims that occurred on or before September 13, 2011, is granted. The matter will proceed as scheduled as to Student’s claims that occurred after September 13, 2011.

Dated: February 22, 2013

/s/

PETER PAUL CASTILLO

Administrative Law Judge

Office of Administrative Hearings